

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ROBERT JESSE HILL,

CASE NO. C23-5739JLR

11 Plaintiff,

ORDER

12 v.

13 ROBERT JACKSON,

14 Defendant.

15 Before the court are *pro se* Petitioner Robert Jesse Hill’s motions (1) for an
16 extension of time to file objections to United States Magistrate Judge Theresa L. Fricke’s
17 report and recommendation (“R&R”), in which Judge Fricke recommends dismissal of
18 Mr. Hill’s petition for a writ of habeas corpus (1st Mot. (Dkt. # 37); *see also* R&R (Dkt.
19 # 36); Petition (Dkt. # 13)); and (2) for appointment of counsel (2d Mot. (Dkt. # 38)).
20 Mr. Hill seeks appointment of counsel for the limited purpose of conducting discovery—
21 specifically, to subpoena Mr. Hill’s former attorneys to obtain “information” that he
22 asserts is pertinent to the ineffective assistance of counsel claims he raises in his habeas

1 petition. (Hill Decl. (Dkt. # 39) ¶ 5; 2d Mot. at 1; *see also* Petition at 7.¹) Mr. Hill also
2 seeks an eight-week extension of the deadline to file objections to the R&R in order to
3 allow sufficient time to conduct his desired discovery before lodging objections. (*See* 1st
4 Mot. at 1.)

5 The court exercises its discretion to consider the motions before the noting date.
6 *See* Fed. R. Civ. P. 1 (stating that the Federal Rules of Civil Procedure should be
7 construed “to secure the just, speedy, and inexpensive determination of every action and
8 proceeding”). In order to rule on Mr. Hill’s request for appointed counsel, the court must
9 consider whether an evidentiary hearing is necessary. *See Bashor v. Riley*, 730 F.2d
10 1228, 1234 (9th Cir. 1984) (explaining that in the habeas context, appointment of counsel
11 is mandatory where an evidentiary hearing is required, but discretionary in all other
12 instances). The merits of the petition determine the need for an evidentiary hearing.
13 *Schriro v. Landrigan*, 550 U.S. 465, 473 (2007) (“In deciding whether to grant an
14 evidentiary hearing, a federal court must consider whether such a hearing could enable an
15 applicant to prove the petition’s factual allegations, which, if true, would entitle the
16 applicant to federal habeas relief.”). (*See* R&R at 25-26 (recommending the court deny
17 an evidentiary hearing as unnecessary in this case).) Because the issue of appointed
18 counsel is intertwined with the merits of the petition, the court reserves ruling on Mr.
19 Hill’s motion for counsel and will instead consider the motion in conjunction with the
20 R&R.

21 _____
22 ¹ The court references the page numbers contained in the CM/ECF header when citing to
the petition.

Turning now to Mr. Hill's motion for an extension of time, such motions must be supported by "good cause." Fed. R. Civ. P. 16(b)(4). The court will grant a six-week extension in this instance. Mr. Hill must file his objections to the R&R by no later than June 28, 2024. Mr. Hill is advised that no further extensions of the objections deadline will be granted.

In sum, the court RESERVES RULING on Mr. Hill's motion for appointment of counsel (Dkt. # 38), and GRANTS in part Mr. Hill's motion for an extension of time (Dkt. # 37). The Clerk is DIRECTED to re-note Judge Fricke's R&R (Dkt. # 36) and Mr. Hill's motion for appointment of counsel (Dkt. # 38) for the court's consideration on June 28, 2024.

Dated this 20th day of May, 2024.

John R. Blot

JAMES L. ROBART
United States District Judge